

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 91-494-W - ORDER NO. 92-1037 ✓  
DECEMBER 16, 1992

IN RE:	Application of South Atlantic	)	
	Utilities, Inc. for Approval	)	
	for a New Schedule of Water	)	ORDER APPROVING
	Rates and Charges for Water	)	RATES AND CHARGES
	Service Provided to its Customers	)	
	Located Within its Certificated	)	
	Service Areas.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by South Atlantic Utilities, Inc. (South Atlantic or the Company) for approval of a new schedule of rates and charges for service provided to its customers in its service area in the Bluffton area of Beaufort County, South Carolina. The Company's July 13, 1992 Application was filed pursuant to S.C. CODE ANN. §58-5-240 (1976, as amended) and R.103-821 of the Commission's Rules of Practice and Procedure.

By letter dated July 27, 1992, the Commission's Executive Director instructed the Company to publish a prepared Notice of Filing one time in a newspaper of general circulation in the area affected by the Company's Application. The Notice of Filing indicated the nature of the Company's Application and advised all interested parties desiring participation in the scheduled proceeding of the manner and time in which to file the appropriate

pleadings. The Company was likewise required to notify directly all customers affected by the proposed rates and charges.

Petitions to Intervene were received from the Consumer Advocate of South Carolina and Mr. Robert Kieffer. One letter of protest was received.

A public hearing relative to the matters asserted in the Company's Application was held on November 24, 1992 at the Offices of the Commission at 111 Doctor's Circle, Columbia, South Carolina. Pursuant to §58-3-95 of the S.C. CODE, a panel of three Commissioners composed of Commissioners Mitchell, Butler, and Arthur was designated to hear and rule on this matter. The Applicant, South Atlantic Utilities, Inc., was represented by Thomas A. Smith, III, its Manager. Elliott F. Elam, Jr., Esquire, represented the Intervenor, the Consumer Advocate for the State of South Carolina. The Intervenor, Robert P. Kieffer, represented himself and the Commission Staff was represented by F. David Butler, Staff Counsel.

Thomas A. Smith, III, presented testimony on behalf of the Company to explain the services provided by the Company and the need for the proposed rate increase and the financial statements and accounting adjustments submitted. Robert P. Kieffer presented a statement to the Commission. The Commission Staff presented the testimony of D. Joe Maready, Staff Accountant, and William O. Richardson, Utilities Engineer Associate. Protestant Diane Mikkelson also presented a statement to the Commission.

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of Georgia. The Company is a water utility operating in the State of South Carolina and is subject to the jurisdiction of the Commission pursuant to S.C. CODE ANN. §58-5-10 (1976, as amended) et seq.

2. As of December 31, 1991, the Company furnished water service to 19 customers in the May River Plantation area of Bluffton, Beaufort County, South Carolina, and had 10 availability customers.

3. The Company's water comes from one well with a storage tank capacity of 5,000 gallons.

4. The Company's present rate was approved by Order No. 79-731 in Docket No. 17,388, dated December 27, 1979.

5. At present, the Company's approved rate is \$8.00 per month flat rate per single family residence. During the calendar years 1984 to 1985, the Company charged an unapproved rate of \$10.00 per month flat rate per single family residence. From 1986 to the present, the Company has charged a rate of \$12.00 per month flat rate per single family residence. The utility has no commercial or industrial customers.

6. The Company's proposed rates would increase the monthly flat rate charge from \$8.00 per single family residence to \$22.00 per single family residence for the first 10,000 gallons and \$1.00 for each 1,000 gallons used over 10,000 gallons per month.

7. The test year proposed by the Company is calendar year

1991 and the Commission approves the use of said test year.

8. Thomas A. Smith, III, Manager of the Company, asserts that the increase to \$22.00 per month for the first 10,000 gallons and \$1.00 for each 1,000 gallons thereafter is necessary to maintain the financial integrity of the Company and will enable the Company to maintain the quality of service to the customers and maintain customer satisfaction with the Company. Smith also noted that this rate would be consistent with the other water companies run by the Company in Georgia.

9. Under its presently approved rates, the Staff states that South Atlantic's operating revenues for the test year after accounting and pro forma adjustments were \$1,824. Hearing Exhibit No. 3. Under South Atlantic's presently approved rate, Staff concluded that the Company's operating expenses for the test year, after accounting and pro forma adjustments were \$4,940. Staff came to this conclusion after making the following adjustments to the Company's expense accounts:

#### MISCELLANEOUS ADJUSTMENTS

Staff proposed to annualize revenues based on the report of the Water and Wastewater Department in the amount of (\$2,384). The Company proposed a projected expense for maintenance supervision which amounts to a \$1,100 adjustment. The Company also proposed a projected expenses for lab testing which amounts to a \$739 adjustment. In addition, the Company proposed a projected decrease to repair expenses for a (\$329) adjustment. Staff proposed to annualize the home office's depreciation and rental expense in the

amount of (\$69). Staff also proposed to annualize interest expense from the home office to South Carolina operations in the amount of \$15.00. Both Staff and the Company propose to show the effect of the proposed rates and charges by the Water and Wastewater Department. Staff proposed a \$3,192 adjustment whereas the Company proposed a \$3,448 adjustment. Further, Staff proposed to show the income tax effect of a proposed increase in the amount of \$15.00. The Commission has examined the proposed adjustments in this matter and finds Staff's adjustments to be reasonable under the circumstances of the present case. The Company had no problem with Staff's adjustments.

10. Staff found that after accounting and pro forma adjustments to its operating revenues and expenses, South Atlantic's net income for return was (\$3,116) and its present operating margin was (170.83%). Hearing Exhibit No. 3. Staff concluded that the Company's proposed increase in its rates and charges would increase its operating margin to 1.22%. Hearing Exhibit No. 3. Based on the above determination concerning the accounting and pro forma adjustments to the Company's revenues and expenses, the Commission concludes that the Company's net income for return was as follows:

TABLE A  
NET INCOME FOR RETURN

BEFORE RATE INCREASE

Operating Revenues	\$1,824
Operating Expenses	4,940
Net Operating Income	(\$3,116)
Customer Growth	0
Net Income for Return	<u>(\$3,116)</u>

11. Under the guidelines established in the decisions of Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in Hope, a utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues "sufficient to assure confidence in the financial soundness of the utility and . . . that are adequate under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, supra, at 692-693.

12. There is no statutory authority prescribing the method which this Commission must utilize to determine the lawfulness of the rates of a public utility. For a water utility such as in the

present case, the Commission may decide to use the "operating ratio" and/or "operating margin" method for determining just and reasonable rates. The operating ratio is a percentage obtained by dividing total operating expenses by operating revenues; the operating margin is determined by dividing the net operating income for return by the total operating revenues of the utility. This method was recognized as an acceptable guide for ratemaking purposes in Patton v. South Carolina Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984).

13. The Commission concludes that the use of the operating margin is appropriate in this case. Based on the Company's gross revenues for the test year, after accounting and pro forma adjustments under the presently approved schedule, the Company's operating expenses for the test year, after accounting and pro forma adjustments and customer growth, the Company's present operating margin is as follows:

TABLE B  
OPERATING MARGIN

BEFORE RATE INCREASE

Operating Revenues	\$1,824
Operating Expenses	4,940
Net Operating Income	(\$3,116)
Customer Growth	0
Net Income for Return	(\$3,116)
Operating Margin (After Interest)	<u>(170.83%)</u>

14. The Commission is mindful of the standards delineated in the Bluefield decision and of the need to balance the respective interests of the company and of the consumer. It is incumbent upon

this Commission to consider not only the revenue requirements of the Company, but also the proposed price for the water service, the quality of the water service and the effect of the proposed rates on the Consumer. See, Seabrook Island Property Owners Association v. South Carolina Public Service Commission, 401 S.E.2d 627 (1991). Also, S.C. CODE ANN., §58-5-290 (1976).

15. The three fundamental criteria of a sound rate structure have been characterized as follows:

...(a) the revenue-requirement or financial-need objective, which takes the form of a fair-return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates  
(1961), p.292.

16. Based on the considerations enunciated in Bluefield and Seabrook Island and on the fundamental criteria of a sound rate structure as stated in Principles of Public Utility Rates, the Commission determines that the Company should have the opportunity to earn a 1.22% operating margin. In order to have a reasonable opportunity to earn a 1.22% operating margin, the Company will need to produce \$5,016 in annual operating revenues. This may be illustrated as follows:



TABLE C  
OPERATING MARGIN

AFTER RATE INCREASE

Operating Revenues	\$5,016
Operating Expenses	<u>4,955</u>
Net Operating Income	61
Customer Growth	0
Total Income for Return	<u>\$ 61</u>
Operating Margin (After Interest)	<u>1.22%</u>

17. Based on the above considerations and reasoning, the Commission hereby approves the proposed increase from \$8.00 per month per single family dwelling to \$22.00 per month for the first 10,000 gallons usage per month as a just and reasonable manner in which to produce and distribute the increased revenues which are necessary to provide the opportunity to earn the approved operating margin.

18. Accordingly, it is ordered that the Company be allowed to increase its rate from \$8.00 per month to \$22.00 per month for the first 10,000 gallons usage, plus \$1.00 for each additional 1,000 gallons per month per single family residence, starting with the date of this Order, said rates and charges also appearing as Appendix A to this Order. This schedule is hereby deemed to be filed with the Commission pursuant to S.C. CODE ANN., §58-5-240 (1976, as amended).

19. It is ordered that should the approved schedule not be placed into effect until three months after the date of this Order the approved schedule shall not be charged without written permission of the Commission.

20. It is further ordered that the Company maintain its books and records for water operations in accordance with the NARUC Uniform System of Accounts for Class A and B water utilities as adopted by this Commission.

21. SOUTH CAROLINA CODE ANN., §58-5-240 (1976, as amended) requires that whenever a water utility desires to put into operation a new rate, toll, rental, charge or classification or a new regulation, it shall give notice of its intention to file, and then it shall file with the Commission a schedule setting forth the proposed changes. As a matter of public policy, the Commission concludes that it has the discretionary authority to order refunds in appropriate circumstances, in situations where a water company has put into effect a new rate without obtaining the statutory approval from this Commission. The Commission finds and concludes that the circumstances surrounding the provision of South Atlantic's water service for charges not approved by this Commission is an appropriate instance in which to require refunds.

22. It is clear from the record in this proceeding that South Atlantic Utilities was aware of the statutory provision requiring them to file with the Commission a schedule setting forth any proposed rate changes. Nonetheless, South Atlantic willingly chose to unilaterally increase its flat rate from \$8.00 to \$10.00 per month during calendar years 1984-1985, and from \$10.00 to \$12.00 from calendar year 1986 to the present. Clearly, South Atlantic Utilities never requested permission from the Commission to do so, nor did they file the appropriate schedules as required

by the Code. No water, sewer or other utility should ever increase its rates without filing them with the Commission for approval after notice and, if necessary, a hearing. In addition, however, the Commission must balance the interests of the Company's customers who have been overcharged against the utility's financial condition and the interests of this Commission as a regulatory body. In this case, the utility is clearly a monopoly, and its customers have little choice where to buy their water. On the other hand, the financial records of the Company reveal that, while the Company is on good financial ground, an Order requiring a 100% refund of all overcharges collected would be financially devastating to the Company. This Commission does believe, however, that some refunds should be made by the Company, because of its practice of overcollecting since 1984. The Commission, therefore, sua sponte, orders South Atlantic to refund 25% of the charges collected by it from 1984 to the present which were in excess of the approved Commission rate of \$8.00 per month.

23. South Atlantic shall refund \$1,824 principal and \$889.20 in interest for a total of \$2,713.20 to the 19 customers who were on the South Atlantic system on the date of the hearing. This amount breaks down to a refund of \$142.80 per customer. This Commission holds that the Company may actually refund this amount to each customer or it may give bill credits until the appropriate amount of credit is used. If refunds are issued, these refunds shall be issued within thirty (30) days of the date of this Order, said amount including interest at the rate of 12.00% per annum. The

Company shall then file with the Commission all necessary information to certify that the refunds required by this Order have been made, including but not limited to the following:

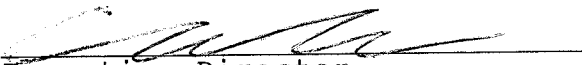
- a. First date that refund procedures were started;
  - b. Dates the refund procedures were completed;
  - c. Whether the Company used a refund procedure or bill crediting;
  - d. Total amount of refund broken down to separately show interest and base refund including amounts not refunded and the reason the amounts were not refunded or credited to a customers account; and,
  - e. A list of customers receiving refunds including telephone number, address, and amount of refund for each customer.
- If bill credits are done, the words "PSC ordered refund" shall appear on the bills at the time credits are issued.

24. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)

APPENDIX A

SOUTH ATLANTIC UTILITIES, INC.  
7505 WATERS AVENUE, SUITE B-8  
SAVANNAH, GEORGIA 31406  
912-354-6296

FILED PURSUANT TO DOCKET NO. 91-494-W - ORDER NO. 92-1037  
EFFECTIVE DATE: DECEMBER 16, 1992

WATER RATES

FIRST 10,000 GALLONS/MONTH	\$22.00 PER MONTH
ALL OVER 10,000 GALLONS/MONTH	\$1.00 PER 1,000 GALLONS